

## VI. OTHER ISSUES

### A. Reclamation of Numbering Resources

#### a. Background

232. The CO Code Assignment Guidelines provide that carriers shall activate NXXs within six months of the "initially published effective date" or the NXXs become subject to reclamation.<sup>547</sup> The NANPA currently recovers NXX blocks pursuant to the requirements set forth in CO Code Assignment Guidelines.<sup>548</sup> As discussed in the *Notice*, the NANC Report notes, however that there has been "some hesitancy" on the part of the NANPA to initiate reclamation of NXXs not activated within the requisite time period, and recommend a current review and modification of the NXX code reclamation procedure to address the current competitive status of the industry.<sup>549</sup> In the *Notice*, we sought comment on several proposals to clarify and strengthen these reclamation procedures.

233. Under the CO Code Assignment Guidelines, an NXX code is considered to be "in service" when the assignee has transmitted local routing information to the LERG.<sup>550</sup> The CO Code Assignment Guidelines require an NXX assignee to activate<sup>551</sup> the NXX code by placing it "in service" within six months of assignment.<sup>552</sup> The carrier, however, does not have to assign and activate any number from the block to end-user customers in order to satisfy the activation requirement.<sup>553</sup> Certification of "in service" status is mandatory through completion of the Central Office Code (NXX) Assignment Request and Confirmation Form - Part 4.<sup>554</sup>

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<sup>547</sup> See CO Code Assignment Guidelines at § 6.3.3 and § 8.0.

<sup>548</sup> Reclamation refers to the process by which service providers are required to return numbering resources to the NANPA or Pooling Administrator. Donation, on the other hand, refers to the process by which carriers are required to contribute telephone numbers to the thousands-block number pool.

<sup>549</sup> *Notice*, 14 FCC Rcd at 10363. See also, NANC Report at § 11.6.

<sup>550</sup> See CO Code Assignment Guidelines at § 13.0.

<sup>551</sup> A code is activated when it is assigned by the CO Code Administrator and implemented in the PSTN for specific routing and rating requirements as of the LERG effective date. See CO Code Assignment Guidelines at § 13.0.

<sup>552</sup> See CO Code Assignment Guidelines at § 6.3.3. Because it takes 66 days to process a request for an NXX code, the guidelines state that applicants should request effective dates that are at least 66 days after the date of the receipt of the code request. CO Code Assignment Guidelines at § 6.1.2.

<sup>553</sup> CO Code Assignment Guidelines at § 6.1.2.

<sup>554</sup> CO Code Assignment Guidelines at § 6.3.3. Under the CO Code Assignment Guidelines, carriers are obligated to submit to the NANPA within six months of the requested effective date of newly obtained NXX codes a Part 4 certification that the code has been placed in service. See CO Code Assignment Guidelines NXX Assignment Request Form, Part 4. According to the NANPA, when a Part 4 is not received within within six months, the CO Code assignees are notified, by letter, that a Part 4 is due to the CO Code Administrator within six months of (continued....)

Furthermore, an assignee may apply to the NANPA for an extension of up to an additional ninety days to place the NXX code in service.<sup>555</sup> The CO Code Assignment Guidelines also allow an assignee to reserve an NXX code for up to eighteen months.<sup>556</sup> In addition, an assignee of a reserved NXX code is eligible to receive a single six-month extension of the reservation if it is able to demonstrate that the proposed code use date was missed due to circumstances beyond its control.<sup>557</sup>

234. The CO Code Assignment Guidelines also contain provisions for NXX block reclamation. The CO Code Assignment Guidelines require the assignee to return an NXX code to the NANPA if it has not been activated within six months of assignment, if the assignee no longer requires that NXX code for the purpose it was originally assigned, or if the service for which it was assigned is disconnected.<sup>558</sup> Moreover, the CO Code Assignment Guidelines direct the NANPA to initiate reclamation action if the NXX code has not been activated within eighteen months.<sup>559</sup> The CO Code Assignment Guidelines direct the NANPA to refer to the INC for resolution in certain instances where NXX codes have not been returned for reassignment by the assignee,<sup>560</sup> as well as certain applications for extension of the NXX code activation date.<sup>561</sup>

235. In the *Notice*, we sought comment on whether the definition of placing an NXX code "in service" should be clarified to mean not just activation of the code through the

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assignment of the CO Code. See NANPA comments at 7. If the Part 4 certification is not received within two weeks following notification, a registered letter is sent to the service provider requesting a response within 30 days that either confirms activation or returns the NXX code. *Id.*

<sup>555</sup> CO Code Assignment Guidelines at § 8.1 and 8.2.3. An extension request of this type must include the reason for the delay and a new activation time commitment. *Id.* at § 8.1. The NANPA may extend the activation deadline if it determines that the reason for non-activation is not within the control of the code assignee. CO Code Assignment Guidelines at § 8.2.3.

<sup>556</sup> CO Code Assignment Guidelines at § 4.4. The applicant must demonstrate that the reservation of the code is essential to accommodate technical or planning constraints or pending regulatory approval of a tariff, certification, or registration. *Id.*

<sup>557</sup> CO Code Assignment Guidelines at § 4.4.

<sup>558</sup> CO Code Assignment Guidelines at §§ 8.1 and 6.3.3.

<sup>559</sup> CO Code Assignment Guidelines at § 5.2.9. This translates to a one-year gap between the expiration of an NXX assignee's code activation deadline and the commencement of reclamation action by the NANPA.

<sup>560</sup> Specifically, the NANPA is to refer to the INC instances where an NXX code has not been activated within the six-month timeframe, where a previously activated code is not now in use, and where an activated code is not being used in accordance with the guidelines. CO Code Assignment Guidelines at § 8.2.2.

<sup>561</sup> Specifically, the NANPA is to refer to the INC instances where: 1) activation has not occurred within the 90-day extension; 2) the administrator believes that the activation has not occurred due to a reason within the assignee's control; or 3) the assignee requests an extension in excess of 90 days. CO Code Assignment Guidelines at § 8.2.2. When the INC is unable to reach a consensus resolution or the assignee refuses to comply with the resolution, the CO Code Guidelines direct the INC to refer the case to the appropriate regulatory authority. *Id.* at § 8.3.

transmission of local routing information to the LERG, but also that the carrier has begun to activate and assign to end users numbers within the NXX code.<sup>562</sup> We tentatively concluded that modifying the current reclamation provisions by requiring the NANPA to initiate NXX code reclamation within sixty days of expiration of the assignee's applicable activation deadline would limit the length of time that an NXX code has been left idle and encourage better recycling of unused NXX codes.<sup>563</sup> Furthermore, we sought comment on whether we should consider any other modifications to the reclamation provisions to improve their enforceability, such as maintaining firm deadlines for activation by removing the discretion the NANPA currently has to determine the length of an extension.<sup>564</sup> Finally, we sought comment on whether we should direct the INC to incorporate these proposed changes into the CO Code Assignment Guidelines, or whether we should adopt these proposals as FCC rules.<sup>565</sup>

236. In addition, we tentatively concluded that we should delegate additional authority to state public utility commissions to order NXX block reclamation in accordance with the CO Code Assignment Guidelines, and any changes thereto adopted during the course of this proceeding.<sup>566</sup> We also sought comment on what, if any additional authority we should delegate to the NANPA to enforce the NXX block reclamation provisions.<sup>567</sup>

#### **b. Discussion**

237. We grant authority to the state commissions to investigate and determine whether code holders have "activated" NXXs assigned to them within the time frames specified in this proceeding.<sup>568</sup> Thus, a state commission may request proof from all code holders that NXX codes have been activated and assignment of the numbers has commenced. We further direct the NANPA to abide by the state commission's determination to reclaim an NXX code if the state commission is satisfied that the code holder has not activated the code within the time specified by this *Report and Order*. We believe that this grant of authority may increase the effectiveness of numbering conservation measures adopted by the states.<sup>569</sup> Reclamation and reuse of unused NXX blocks is a numbering optimization measure that may be one of the quickest and easiest measures to implement. Reclaiming NXX codes that are not in use may serve to prolong the life

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<sup>562</sup> Notice, 14 FCC Rcd at 10365.

<sup>563</sup> *Id.* at 10366.

<sup>564</sup> *Id.*

<sup>565</sup> *Id.*

<sup>566</sup> *Id.*

<sup>567</sup> *Id.*

<sup>568</sup> See Texas Commission comments at 18-19; New York Commission comments at 8. *But see*, Ameritech comments at 26-28 (arguing that specific proposals to add new reclamation guidelines or modify existing ones are best developed through the industry fora process).

<sup>569</sup> *Id.*

of an area code because these codes are added to the total inventory of assignable NXX codes in the area code. Although most commenters support the reclamation of unused codes,<sup>570</sup> those opposed to it are not necessarily opposed to reclaiming unused codes in general, but rather assert that the NANPA should be responsible for reclamation activities.<sup>571</sup> We believe, however, that state commissions may be able to resolve such issues more quickly and decisively than an industry consensus process. We note that if state commissions do not make decisions on NXX reclamation, the Commission, under its exclusive jurisdiction over numbering, can order the NANPA to be responsible for reclamation activities. In such instances, the NANPA should consult with the Commission before conducting this activity.

238. Similarly, we give the same authority to the states to direct the Pooling Administrator in state pooling trials, as well as the national Pooling Administrator once national thousands-block number pooling has been established, to reclaim unactivated or unused thousands-blocks. If state commissions decline to make decisions on NXX or thousands-block reclamation, the Commission, under its exclusive jurisdiction over numbering, can order the NANPA, or the Pooling Administrator where thousands-block number pooling is in place, to be responsible for reclamation activities. In such instances, the NANPA or the Pooling Administrator should reclaim unused numbering resources in accordance with the reclamation procedures prescribed herein.

239. We clarify that the state commissions need not follow the reclamation procedures set forth in the CO Code Assignment Guidelines relating to referring the issue to the INC, as long as the state commission accords the code holder an opportunity to explain the circumstances causing the delay in activating NXX codes.<sup>572</sup> This authority is consistent with the delegations of authority granted to several state commissions. We believe that the CO Code Assignment Guidelines dictate substantial procedural hurdles prior to reclaiming an unused NXX, in part to afford the code holder an opportunity to explain the circumstances that may have led to a delay in code activation.<sup>573</sup> New entrants, in particular, may suffer unexpected delays or scheduling setbacks beyond their control, which could lead to code activation delays.<sup>574</sup>

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<sup>570</sup> See, e.g., BellSouth comments at 8; Florida Commission comments at 2; Ohio Commission comments at 24; Small Business Alliance comments at 7; Wisconsin Commission comments at 4.

<sup>571</sup> See, e.g., ALTS comments at 18; Ameritech comments at 27; AT&T comments at 30-31; SBC Comments at 63-64.

<sup>572</sup> See, e.g., New York Commission comments at 8 (noting that the current CO Code Assignment Guidelines that require referring non-compliance to the INC for resolution is cumbersome and time consuming).

<sup>573</sup> For example, the CO Code Assignment Guidelines dictate that the CO Code Administrator must refer to the INC for resolution regarding any matter relating to an NXX code that has not been activated within the timeframe specified in the guidelines. CO Code Assignment Guidelines at § 8.2.2. The INC must then investigate the referral and attempt to resolve the referral. CO Code Assignment Guidelines at § 8.3. Absent consensus resolution, the matter is then referred to the "appropriate regulatory body" for resolution. *Id.*

<sup>574</sup> See Level 3 comments at 10 (stating that there are many factors outside the new entrants' control which may delay its ability to provide service); MediaOne comments at 12 (stating that where the delay is outside of the control (continued....))

240. In addition, we conclude that the definition of placing an NXX code "in service" should be clarified to mean not just activation of the code through transmission of the local routing information to the LERG, but also that the carrier has begun to activate and assign to end users numbers within the NXX code.<sup>575</sup> We find that the current definition of "in service" in the CO Code Assignment Guidelines does not require that the carrier has begun to activate and assign to end users numbers within the NXX code. We believe that this clarification will better ensure that NXX codes are not left idle for a lengthy period.<sup>576</sup> We also note that this clarification will help to ensure that numbers are actually in use and not merely "in service" for an indefinite period of time.<sup>577</sup>

241. We also adopt our tentative conclusion to require the initiation of reclamation action within sixty days of expiration of the assignee's applicable activation deadline, instead of the current 18-month timeframe in the Co Code Assignment Guidelines.<sup>578</sup> We believe, therefore, that requiring the NANPA to initiate NXX code reclamation within sixty days of expiration of the assignee's applicable activation deadline should increase the availability of numbers. We note that this modification will conserve numbering resources by limiting the length of time that an NXX code has been left idle. Moreover, a protracted reclamation interval enables misuse of numbering resources by allowing code assignees to hold their numbers.<sup>579</sup> We adopt the above-mentioned changes to the CO Code Assignment Guidelines as FCC rules.<sup>580</sup> We note that the reclamation provisions set forth in this *Report and Order* are subject to a carrier's ability to maintain a six-month inventory of numbering resources.<sup>581</sup>

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of the NXX-holding carrier, the carrier should have the ability to retain its codes so long as it can show that it will use them in a reasonable period).

<sup>575</sup> See CinBell comments at 7; MediaOne comments at 16; North Carolina Commission comments at 9; SBC comments at 43; Small Business Alliance comments at 21; VoiceStream comments at 21.

<sup>576</sup> Notice, 14 FCC Rcd at 10365.

<sup>577</sup> See New York Commission comments at 8.

<sup>578</sup> Several commenting parties support our tentative conclusion. See Connecticut Commission comments at 6; MediaOne comments at 15; New York Commission comments at 8; North Carolina Commission comments at 10; SBC comments at 66; VoiceStream comments at 22. But see ALTS comments at 17 (supporting some reduction in the current reclamation provisions but stating that 60 days is too short to accommodate unavoidable delays in activating NXX codes).

<sup>579</sup> See VoiceStream comments at 22.

<sup>580</sup> See Appendix A.

<sup>581</sup> See *supra* ¶¶ 188-89

## B. Sequential Number Assignment

### a. Background

242. The INC Thousand Block Pooling Administration Guidelines state that, prior to the pooling implementation date, carriers are to protect thousands blocks that are less than 10% contaminated.<sup>582</sup> Moreover, the Thousand Block Pooling Guidelines state that thousands-block number pooling applicants requesting resources from the industry inventory pool “should attempt to assign TNs [telephone numbers] out of a given thousand block before making assignment out of another thousand block.”<sup>583</sup> We sought comment in the *Notice* on whether we should order some form of sequential number assignment prior to the implementation of pooling.<sup>584</sup> Specifically, we envisioned the adoption of a strict sequential number assignment requirement that would require carriers to assign numbers within individual thousands blocks sequentially, and except where necessary to specific customer needs, to fill or substantially fill each thousands block before beginning to assign numbers from another block.<sup>585</sup> We also asked whether sequential number assignment should be limited to those areas in which pooling would be required within a certain amount of time and whether non-LNP-capable carriers should be required to assign numbers sequentially in anticipation of a pooling mandate at some future time.<sup>586</sup> In addition, we sought comment on whether the decision to require sequential number assignment should be left to state commissions, and whether there existed any consistency concerns that would be better addressed by adoption of a nationwide standard.<sup>587</sup> We further asked whether we should adopt any exceptions to a general requirement of sequential number assignment to permit a service provider to meet the needs of a large customer or respond to other types of customer requests or needs.<sup>588</sup> Moreover, we asked whether sequential number assignment causes undue burden to any particular industry segment, or creates unnecessary customer inconvenience.<sup>589</sup>

243. Since the release of the *Notice*, several state commissions were granted interim authority by the Commission to require sequential number assignment rules prior to or in

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<sup>582</sup> See Thousands Block Pooling Guidelines at § 8.2.4. Service providers are required to protect blocks with less than 10% contamination, unless the service provider does not have an adequate supply of numbers in its inventory to meet customer needs (other than for “vanity” numbers). *Id.*

<sup>583</sup> Thousands Block Pooling Guidelines at § 2.7(d).

<sup>584</sup> *Notice*, 14 FCC Rcd at 10404.

<sup>585</sup> *Id.*

<sup>586</sup> *Id.* at 10404-05.

<sup>587</sup> *Id.*

<sup>588</sup> *Id.*

<sup>589</sup> *Id.*

connection with the commencement of thousands-block number pooling trials.<sup>590</sup> In light of the concern that a grant of this authority to the state commissions could interfere with a carrier's ability to satisfy a customer request for a particular set of numbers, we urged the state commissions to allow carriers some flexibility in assigning numbers sequentially.<sup>591</sup> Similar to using utilization or "fill" rates for growth codes, we also insisted that the state commissions consult with each other to attempt to implement consistent rules for sequential number assignment.<sup>592</sup>

#### b. Discussion

244. We adopt a flexible requirement which mandates that carriers first assign all available telephone numbers within an opened thousands-block before opening another thousands-block, unless the available numbers in the opened thousands-block are not sufficient to meet a customer request. We note that this requirement applies to a carriers existing numbering resources as well as any new numbering resources it obtains in the future. We believe that such a requirement will adequately protect clean thousands-blocks from unnecessary contamination. We agree with commenting parties who express concern that the strict sequential numbering requirement we discussed in the *Notice* may be too inflexible to meet customer needs.<sup>593</sup> We believe, however, that the implementation of a requirement to manage thousands-blocks to maximize the availability of clean or lightly contaminated thousands blocks will increase the efficacy of pooling.

245. Under our requirement, a carrier that opens a clean block prior to utilizing in its entirety a previously-opened thousands-block should be prepared to demonstrate to the state commission: (1) a genuine request from a customer detailing the specific need for telephone numbers; (2) the inability on the part of the carrier to meet the specific customer request for telephone numbers from the surplus of numbers within the carrier's currently activated thousands-block. We believe that this requirement will improve carrier efficiency in utilizing numbering resources, while maintaining carrier flexibility in meeting customer demand. We also acknowledge that this requirement has the potential to forestall other thousands blocks from becoming contaminated - and thus ineligible for possible donation to a pool. We also find that

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<sup>590</sup> *California Delegation Order*, 14 FCC Rcd at 17499-500; *Ohio Delegation Order* at ¶ 24; *Texas Delegation Order* at ¶ 29; *Wisconsin Delegation Order* at ¶ 24.

<sup>591</sup> *Id.*

<sup>592</sup> *Id.*

<sup>593</sup> See Bell Atlantic comments at 31 (arguing that carriers should be able to meet specific customer requirements with any number resource at their disposal); PrimeCo comments at 9 (stating that carriers should be able to extract a certain quantity of numbers from each NXX code to be held as "vanity" numbers); WinStar comments at 32 (noting that any numbering scheme must allow service providers the opportunity to hold aside 20% of an NXX code for the assignment of preferred or "vanity" numbers, and that part of the guidelines could include opportunity for a service provider to extract a certain quantity of numbers from each NXX block to be held as "vanity" numbers and for large customers requiring even blocks of numbers).

sequential number assignment may improve carrier efficiency in utilizing numbering resources, regardless of whether pooling is implemented.

246. We further require that existing delegations of sequential numbering authority conform to the provisions herein. State commissions are required to conform their existing sequential number assignment requirements by January 1, 2001. We recognize the potential inconvenience and confusion from the existence of disparate requirements, and believe that a uniform requirement will be more manageable. To the extent that this requirement and any other requirement articulated in this *Report and Order* conflicts with the Thousand Block Pooling Guidelines, all carriers are required to follow this mandate.

## VII. FURTHER NOTICE OF PROPOSED RULEMAKING

247. *Introduction.* In the accompanying *Report and Order*, we seek to address the underlying drivers of area code exhaust and thereby extend the life of the NANP through effective number conservation and efficient utilization measures. We adopted both administrative and technical measures that are designed to increase the efficient allocation and use of NANP resources. Specifically, we adopted numbering status definitions that must be used by carriers to categorize their numbering resources and report utilization information in semi-annual reports and requests for numbering resources. We also adopted enhanced data reporting and audit requirements to increase efficient management of and carrier accountability for numbering resources. In addition, we approved thousands-block number pooling as an essential numbering resource optimization strategy. To better ensure that numbering resources are used efficiently, we adopted numbering resource reclamation requirements. We delegated additional authority to state commissions to require sequential numbering assignment in order to encourage better management of numbering resources. Further, we established a utilization threshold framework that links the allocation of numbering resources with an actual need by the carrier for those resources to provide service.

### A. Utilization Threshold

248. As noted in the *Report and Order*, we seek further comment on what specific utilization threshold carriers not participating in thousands-block number pooling carriers should meet in order to request growth numbering resources. Commenters that offered a specific utilization threshold suggested that utilization thresholds should be set as low as 60% and as high as 90%. However, very little information was provided as to the basis for these specific threshold levels. We seek comment on specific utilization threshold(s). Comments should include rationale for the specific threshold(s) recommended, including the initial level, annual increases, and the maximum level. We tentatively conclude that a nationwide utilization threshold for growth numbering resources should be initially set at 50%. This threshold would increase by 10% annually until it reaches 80%. Additionally, we propose to require carriers to meet a specific rate center-based utilization threshold for the rate center in which it is seeking additional numbering resources. If parties propose a utilization threshold range, parties should explain in detail what criteria should be used to determine the specific rate-center based utilization threshold within that range. We seek further comment on whether state commissions should be allowed to set the rate-center based utilization threshold within this range based on



criteria that we establish. We also seek further comment on utilization thresholds at the rate center level, that should operate in unison with the thresholds at the NPA level.

### **B. Implementation of Pooling for Non-LNP-Capable Carriers**

249. We seek comment on whether covered CMRS carriers should be required to participate in pooling immediately upon expiration of the LNP forbearance period on November 24, 2002. In the alternative, we seek comment on whether we should allow some sort of transition period between the time that covered CMRS carriers must implement LNP, and the time that they must participate in pooling,<sup>594</sup> and if so, what the minimum reasonable allowance for such a transition period would be. We note that by determining in this order that covered CMRS carriers will be required to participate in pooling once they have acquired LNP capability, we are providing a fairly long lead-time – more than two years – in which all of the necessary preparations may be accomplished. We further note that after they have acquired LNP capability, covered CMRS providers will be subject to the same terms and conditions regarding participation in thousands-block number pooling as are other LNP-capable carriers. For example, CMRS providers within and outside the top 100 MSAs will not be subject to pooling unless they have received a request for LNP from another carrier, and pooling will be limited to the same service area as their LNP deployment.

### **C. Pricing for Numbers**

250. In the *Notice* we indicated that an alternative approach for improving the allocation and utilization of numbering resources would be to require carriers to pay for them. We noted that this approach could be in isolation or in combination with the administrative and numbering optimization approaches identified in the *Notice*.<sup>595</sup>

251. Many commenters opposed pricing for numbering resources. One of the primary economic reasons given for opposing a market-based allocation system was that numbering resources are allocated in 10,000 blocks by rate center. Pricing under this paradigm, it was argued, would create a barrier to entry to new markets.<sup>596</sup> This could be true if carriers were barred from sharing spare numbering resources with other carriers. In any case, we continue to believe that a market-based approach is the most pro-competitive, least intrusive way of ensuring that numbering resources are efficiently allocated. We believe that thousands-block pooling will substantially reduce the quantity of numbering resources new entrants will need to accumulate to enter a market. Therefore, we seek further comment on how a market-based allocation system for numbering resources could be implemented. Specifically, we seek comment on how a market-based allocation system would affect the efficiency of allocation of numbers among carriers. Given that our motivation in seeking comment on such an approach is to increase the efficiency with which numbering resources are allocated, and not to raise additional funds, we

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<sup>594</sup> Cf. AT&T comments at 48; GTE comments at 50-51.

<sup>595</sup> *Notice*, 14 FCC Rcd at 10416.

<sup>596</sup> Texas Public Util. Counsel and NASUCA comments at 40.

also seek comment on whether funds collected in this way could be used to offset other payments carriers make, such as contributions to the universal service and TRS programs. Commenters addressing this issue should specifically address how to account for the fact that some carriers, such as interexchange carriers, do not generally use numbering resources but currently contribute to these other programs. Commenters should also ensure that their proposals provide market-based incentives for carriers to economize their use of numbering resources.

#### **D. Recovery of Shared Industry and Direct Carrier-Specific Costs**

252. Requiring incumbent LECs to bear their own costs related to thousands-block number pooling will not disadvantage any telecommunications carrier. All other carriers are also required to bear their own shared industry and carrier-specific costs. In the *Notice*, we tentatively concluded that incumbent LECs subject to rate-of-return or price cap regulation may not recover their interstate carrier-specific costs directly related to thousands-block number pooling through a federal charge assessed on end-users, but may recover the costs through other cost recovery mechanisms.<sup>597</sup> Several parties agree with the tentative conclusion that thousands-block number pooling costs should not be recovered through a federal charge assessed on end users, but should be recovered through access charges.<sup>598</sup> Some commenters recommend that price cap LECs should be allowed to treat the thousands-block pooling number costs as exogenous cost adjustments or, alternatively, place the costs in a new or existing price cap basket.<sup>599</sup> Other parties, however, urge us to abandon our tentative conclusion because recovery through access charges would violate the competitive neutrality standard of section 251(e)(2).<sup>600</sup>

253. In the *Notice*, we requested detailed estimates of the costs of thousands-block number pooling and asked that commenters separate the estimates by category of costs.<sup>601</sup> We also sought comment on the appropriate methodology for developing these and other cost estimates.<sup>602</sup> The amount and detail of the data provided in response to our request is insufficient for us to determine the amount and/or magnitude of the costs associated with thousands-block number pooling. Without sufficient cost data, it is difficult for us to determine the appropriate cost recovery mechanism for these costs. We, therefore, find it necessary to request additional cost information prior to making a final decision on the appropriate method of cost recovery. We seek further comment and cost studies that quantify shared industry and direct carrier-specific costs of thousands-block number pooling. We also seek comment and cost studies that take into

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<sup>597</sup> *Notice*, 14 FCC Rcd at 10410.

<sup>598</sup> NECA comments at 2; New Hampshire Commission comments at 18; New York Commission comments at 12; Ohio Commission comments at 35.

<sup>599</sup> See Cox comments at 17; USTA comments at 11; U S West comments at 34 (stating that ongoing costs of number pooling should be recovered through an ongoing exogenous adjustment).

<sup>600</sup> MCI WorldCom comments at 53.

<sup>601</sup> *Notice*, 14 FCC Rcd at 10407-08.

<sup>602</sup> *Id.*

account the cost savings associated with thousands-block pooling in comparison to the current numbering practices that result in more frequent area code changes.

## VIII. PROCEDURAL MATTERS

### A. *Ex Parte* Presentations

254. This matter shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.<sup>603</sup> Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a list of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required.<sup>604</sup>

### B. Comment Filing Procedures

255. Pursuant to applicable procedures set forth in sections 1.415 and 1.419 of the Commission’s rules, 47 C.F.R. §§1.415 and 1.419, interested parties may file comments on or before May 1, 2000, and reply comments on or before May 16, 2000. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS) or by filing paper copies.<sup>605</sup> Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number, which in this instance is CC Docket No. 99-200. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the body of the message, “get form <your e-mail address>.” A sample form and directions will be sent in reply.

256. Parties who choose to file by paper must file an original and four copies of each filing. All filings must be sent to the Commission’s Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W. Room TW A325, Washington, D.C. 20554.

257. Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with section 1.49 and all other applicable sections of the Commission’s rules.<sup>606</sup> We also direct all interested parties to include the name of the filing party and the date of the filing on each page

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<sup>603</sup> See Amendment of 47 C.F.R. 1.1200 et seq. Concerning Ex Parte Presentations in Commission Proceedings, *Report and Order*, 12 FCC Rcd 7348, 7356-57 (1997) (citing 47 C.F.R. § 1.1204(b)(1)).

<sup>604</sup> See 47 C.F.R. § 1.1206(b)(2).

<sup>605</sup> See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24, 121 (1998).

<sup>606</sup> See 47 C.F.R. § 1.49.

of their comments and reply comments. All parties are encouraged to utilize a table of contents, regardless of the length of their submission.

258. Parties who choose to file paper should submit their comments on diskette. These diskettes should be submitted to Jeannie Grimes, Network Services Division, Common Carrier Bureau, 445 Twelfth Street, S.W., Room 6-A207, Washington, D.C. 20554. Such submissions should be on a 3.5-inch diskette formatted in an IBM compatible format using Word for Windows or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the docket number), type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette.

259. Regardless of whether parties choose to file electronically or by paper, parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 1231 20th Street, N.W., Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 445 Twelfth Street, S.W. Washington, D.C. 20554.

#### **C. Regulatory Flexibility Act**

260. As required by the Regulatory Flexibility Act (RFA), 5 U.S.C. § 603, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Notice*. The Commission sought written public comment on the proposals in the *Notice*, including the IRFA.<sup>607</sup> Appendix B sets forth the Final Regulatory Flexibility Analysis for the *Report and Order*.

#### **D. Final Paperwork Reduction Act Analysis**

261. The *Notice* from which the *Report and Order* issues proposed changes to the Commission's information collection requirements. As required by the Paperwork Reduction Act of 1995, the Commission sought comment from the public and from the Office of Management and Budget (OMB) on the proposed changes. This *Report and Order* contains several new information collections, which will be submitted to OMB for approval, as prescribed by the Paperwork Reduction Act.

#### **E. Further Notice Initial Paperwork Reduction Act Analysis**

262. This *Further Notice* does not contain either a proposed nor a modified information collection, and therefore, there is no need to seek comments from the general public and the OMB.

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<sup>607</sup> 5 U.S.C. § 603(a).

**IX. ORDERING CLAUSES**


263. Accordingly, IT IS ORDERED that, pursuant to Sections 1, 3, 4, 201-205, 251 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 153, 154, 201-205, and 251, this REPORT AND ORDER is hereby ADOPTED and Part 52 of the Commission's rules ARE AMENDED as set forth in the attached Appendix A.

264. IT IS FURTHER ORDERED that the amendments to sections 52.7 through 52.19 of the Commission's rules as set forth in Appendix B ARE ADOPTED, effective thirty days from the date of publication in the Federal Register. The action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1995 and found to impose new or modified reporting and/or recordkeeping requirements or burdens on the public. Implementation of these new or modified reporting and/or recordkeeping requirements will be subject to approval by the Office of Management and Budget (OMB) as prescribed by the Act, and will go into effect upon announcement in the Federal Register of OMB approval.

265. IT IS FURTHER ORDERED that pursuant to Sections 1, 3, 4, 201-205, 251 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 153, 154, 201-205, and 251 this FURTHER NOTICE OF PROPOSED RULEMAKING is hereby ADOPTED.

266. IT IS FURTHER ORDERED that the Commission's Consumer Information Bureau, Reference Information Center, SHALL SEND a copy of this *Report and Order and Further Notice of Proposed Rulemaking*, including the Initial and Final Regulatory Flexibility Analyses, to the Chief Counsel for Advocacy of Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION



Magalie Roman Salas  
Secretary

## Appendix A

## Final Rules

## PART 52 – NUMBERING

## Subpart B – Administration

1. The authority citation for Part 52 continues to read as follows:

AUTHORITY: Sections 1, 2, 4, 5, 48 Stat. 1066, as amended; 47 U.S.C. § 151, 152, 154, 155 unless otherwise noted. Interpret or apply secs. 3, 4, 201-05, 207-09, 218, 225-7, 251-2, 271 and 332, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 153, 154, 201-205, 207-09, 218, 225-7, 251-2, 271 and 332 unless otherwise noted.

2. Section 52.5 is revised to read as follows:

**§ 52.5 Definitions.**

(a) \*\*\*

(b) \*\*\*

(c) \*\*\*

(d) \*\*\*

(e) \*\*\*

(f) \*\*\*

(g) \*\*\*

(h) \*\*\*

- (i) *Service Provider*. The term “service provider” refers to a telecommunications carrier or other entity that receives numbering resources from the NANPA, a Pooling Administrator or a telecommunications carrier for the purpose of providing or establishing telecommunications service.

3. Section 52.7 is revised to read as follows:

**§ 52.7 Definitions.**

(a) \*\*\*